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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,690	01/27/2004	Patrick Monney	09623C-031510US	2081
20350	7590	06/23/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			NGUYEN, ANTHONY H	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/766,690

Applicant(s)

MONNEY ET AL.

Examiner

Anthony H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Applicant's election of Group II, claims 16-20, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Accordingly, claims 1-5 and 21-24 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

### *Claim Rejections - 35 U.S.C. § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16,17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Trent et al. (US 2004/0252109).

With respect to claims 16 and 17, Trent et al. teaches a keyboard 20 having a user-manipulable volume control dial disposed on the surface of the keyboard. The volume control dial includes a cylinder having an undulating surface and axis generally perpendicular to the keyboard surface. See, Trent et al., Figs.2, 4-20 and paragraph [0086]. With respect to claim 19, Trent et al. teaches that the volume control dial can be implemented as a stand-alone device or as a separated device (Trent et al., paragraph [0077]).

**Claim Rejections - 35 U.S.C. § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Trent et al. (US 2004/0252109) in view of Charlton (US 5,929,774).

Trent et al. teaches all that is claimed, except for the volume control dial which is moved toward and away from the keyboard surface. Charlton teaches the power/volume control dial 34 which is moved toward or away (i.e., pressed or unpressed the key) from the keyboard surface as shown in Fig.1 of Charlton. In view of the teaching of Charlton, it would have been obvious to one of ordinary skill in the art to modify the keyboard of Trent et al. by providing the volume control dial as taught by Charlton for quickly turning on the volume control dial.

Claim 20 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Trent et al. (US 2004/0252109) in view of Nakada et al. (US 3,902,398).

Trent et al. teaches all that is claimed, except the photoemitter and the photodetector are not clearly shown. Nakada et al. teaches the sound volume control device having a photoemitter 18 and a photodetector 19 which detects the light through the slits of the plate 15 as shown in Figs.2-3 of Nakada et al. In view of the teaching of Nakada et al., it would have been obvious to one of ordinary skill in the art to modify the the volume control dial of Trent et al. by providing

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the photemitter and photodetector as taught by Nakada et al. to improve the efficiency of sending a signal to a processing unit.

***Conclusion***

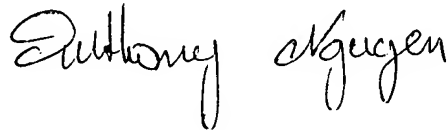
The patents to Bayramoglu et al., Franzmann, Bear et al., Asahi et al. and Yamamoto et al. are cited to show other structures having obvious similarities to the claimed structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (571) 272-2169.

The examiner can normally be reached daily from 9 AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (571) 272-2168.

The fax phone number for this Group is (703) 872-9306.

A handwritten signature in cursive script that reads "Anthony Nguyen".

Anthony Nguyen  
6/15/05  
Patent Examiner  
Technology Center 2800